

In the High Court of Uttaranchal, at Nainital.

Writ Petition No. 633 of 2001 (M/B)

Union of India through the Superintendent

Post Offices, Almora

...Petitioner.

Versus

1- Central Administrative Tribunal, Allahabad.

2- Jagdish Charndra Pant,

S/o Late B.D. Pant,

R/o Village and Post Office,

Pilkhoki, District Almora

..Respondents.

Smt. Anjali Bhargava, learned Standing Counsel for Union of India.

Sri Manoj Tiwari, learned counsel for the respondent No. 2.

Coram: Hon'ble P.C. Verma, J.

Hon'ble B.C . Kandpal, J.

Dated: 24-03-2006

By means of this writ petition, the petitioner has challenged the order dated 7-3-2001, passed by the Central Administrative Tribunal in O.A. No. 1525 of 1999 (Annexure No. 5 to the writ petition).

2- Brief facts giving rise to this petition are that the respondent No.2 was appointed as E.D. Stamp Vender in the year 1992 and appeared in 1998 examination, for the post of postman, for which the examination was held on 20-12-1998. The respondent No.2 was one of the declared successful candidates at serial No.6, vide the list declared on 29-4-1999, and was sent for training to that post. However on 10-5-1999 this result was kept in abeyance and the subsequently modified select list was declared on 30-11-1999, in which the name of respondent No.2 was eliminated.

3- The petitioner challenged the modified select list dated 30-11-1999 before the Central Administrative Tribunal and the Central Administrative Tribunal vide judgment and order dated 7-3-2001 decided the application of the respondent No.2 with

the observation that it would not be proper to disturb the settled position and issued the direction that the respondent No.2 be deemed to be a candidate who has successfully qualified the test to be appointed as postman and be considered to be posted as postman to the existing post, if any, or against the accrual of any vacancy.

4- Feeling aggrieved by the aforesaid judgment passed by the Central Administrative Tribunal, the Union of India through the Superintendent of Post Offices, has filed this writ petition.

5- The counter affidavit has been filed by the respondent No.2 Jagdish Charndra Pant, stating therein that the impugned judgment and order dated 7-3-2001, passed by the Central Administrative Tribunal, suffers with no infirmity and does not require any interference by this court, under Article 226 of the Constitution of India. It has also been pleaded that the Postmaster General had no authority whatsoever to suspend the result declared by the Superintendent of Post Offices and that too after the selected candidates had joined the training.

6- The petitioner has filed the rejoinder affidavit reiterating the facts mentioned in the writ petition.

7- Heard the learned counsel for the parties and perused the record.

8- The record reveals that the examination in the year 1998 pertaining to the postman, although was not a qualifying examination but it was only to sort out the list of the eligible candidates to the extent of vacancies and the respondent No.2 was within the list. The exercise of bracketing and declaration of modified list appears to be only cover up the negligence and non-compliance of the rules by the officers concerned for no fault of the respondent No.2. Therefore, the fact remains that respondent No.2 was amongst the successful candidates as per the result declared on 29-4-1999. The name of respondent No.2 did not find place in the subsequent modified list which was declared on 30-11-1999, therefore, the subsequent bracketing exercise by the departmental authorities was only to cover up

the matter otherwise and we come to the conclusion that in this process injustice has been caused to respondent No.2. The learned Tribunal has rightly come to the conclusion that it was not legally justified to disturb the settled position and accordingly issued the direction to the departmental authorities to deem respondent No.2 to be a candidate who had successfully qualified the test for being appointed as postman.

9- We do not find any ground for interference in the impugned judgment and order passed by the Central Administrative Tribunal. We are also of the view that this petition lacks merit and is liable to be dismissed. The direction issued by the Central Administrative Tribunal to consider respondent No.2 to be appointed as postman against the existing post, if any, or against the accrual of the vacancy, is completely justified and does not require any interference.

10- Accordingly the writ petition is dismissed.

(B.C. Kandpal, J.)

(P.C. Verma, J.)

ISB